

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

BRIGHT SOLUTIONS FOR DYSLEXIA,
INC., et al.,

Plaintiffs,

v.

MARCUS LEE, et al.,

Defendants.

Case No. [15-cv-01618-CW](#) (JSC)

~~[PROPOSED]~~ JUDGMENT

Pursuant to Rule 55(b)(2) of the Federal Rules of Civil Procedure, final default judgment is entered in Plaintiffs' favor against Defendants Marcus Lee, Sherry Hurley, and Samuel Zhao, and each of them, jointly and severally, as follows:

1. The following of Plaintiffs' federally registered marks (the "Barton Marks") are valid and protectable: 'BRIGHT SOLUTIONS FOR DYSLEXIA,' Reg. No. 2,593,795 (Jul. 16, 2002, amended Jan. 12, 2016); and 'BARTON TILES,' Reg. No. 4,384,849 (Aug. 13, 2013), owned by Bright Solutions for Dyslexia, Inc.; and 'BARTON READING & SPELLING SYSTEM,' Reg. No. 2,584,586 (Jun. 25, 2002), owned by Susan Barton.

2. Plaintiff Susan Barton's federally registered works are valid and protected (together the "Copyrighted Barton System" under the "Barton Copyrights"):

- A. Barton reading and spelling system, Registration No. PA0001013211 (Dec. 21, 2000);
- B. Barton reading & spelling system: bk. 1, Registration No. TX0005266778 (Aug. 21, 2000);
- C. Barton reading & spelling system: bk. 1, phonemic awareness, Registration No. TX0005266762 (Aug. 21, 2000);

- 1 D. Barton reading and spelling system: bk. 2, Consonants and short vowels,
2 Registration No. PA0001013202 (Aug. 21, 2000);
- 3 E. Barton reading & spelling system: bk. 2, consonants & short vowels,
4 Registration No. TX0005266763 (Aug. 21, 2000);
- 5 F. Barton reading and spelling system: bk. 3, Closed syllables, Registration
6 No. PA0001013203 (Aug. 21, 2000);
- 7 G. Barton reading and spelling system: bk. 3, closed syllables, Registration No.
8 TX0005266764 (Aug. 21, 2000);
- 9 H. Barton reading and spelling system: bk. 4, Syllable division & vowel teams,
10 Registration No. PA0001020830 (Dec. 11, 2000);
- 11 I. Barton reading and spelling system: level 4, syllable division & vowel
12 teams, Registration No. TX0005329391 (Dec. 11, 2000);
- 13 J. Barton reading and spelling system, bk. 5, Prefixes & suffixes, Registration
14 No. PA0001020826 (Dec. 11, 2000);
- 15 K. Barton reading and spelling system, bk. 5, Prefixes & suffixes, Registration
16 No. TX0005580740 (Dec. 11, 2000);
- 17 L. Barton reading & spelling system: book for level 6: six reasons for silent E,
18 Registration No. TX0005772289 (Jun. 20, 2003);
- 19 M. Barton reading & spelling system: book for level 7, vowel-R syllables,
20 Registration No. TX0005792513 (May 19, 2003);
- 21 N. Barton reading & spelling system: book for level 8: advanced vowel teams,
22 Registration No. TX0005772288 (Jun. 20, 2003);
- 23 O. Barton reading & spelling system: book for level 9, Influence of foreign
24 languages, Registration No. TX0005792512 (May 19, 2003);
- 25 P. Dyslexia: testing & teaching, Registration No. PA0001056854 (Aug. 28,
26 2001);
- 27 Q. Classroom accommodations for dyslexic students, Registration No.
28 PA0001056855 (Aug. 28, 2001);

1 R. Could it be dyslexia? Registration No. PA0001029824 (Feb. 12, 2001); and

2 S. Handout for video Could it be dyslexia? Registration No. TX0005382103
3 (Feb. 13, 2002).

4 3. Defendants and their respective officers, agents, servants, employees and attorneys,
5 and all persons in active concert and participation with them are permanently restrained and
6 enjoined, jointly and severally, from infringing Plaintiffs' federal trademarks and copyrights in
7 any manner, enjoining Defendants and each of them from selling or advertising any goods or
8 services copyrighted by Plaintiff Susan Barton (the "Copyrighted Barton System") and under
9 Plaintiff Bright Solutions for Dyslexia, Inc.'s federal trademarks (the "Barton Marks"), using any
10 of the Barton Marks in commerce, or publishing, selling, marketing, or otherwise disposing of any
11 copies of any level of the Copyrighted Barton System. Defendants and their respective officers,
12 agents, servants, employees and attorneys, and all persons in active concert and participation with
13 them are hereby restrained and enjoined, jointly and severally from:

14 a. Manufacturing or causing to be manufactured, importing, advertising, or
15 promoting, distributing, selling, or offering to sell counterfeits of the Copyrighted Barton System
16 and infringing goods or services using the Barton Marks;

17 b. Using the Barton Marks in connection with the sale of any Copyrighted
18 Barton System and any unauthorized goods or services;

19 c. Using any logo, and/or layout which may be calculated to falsely advertise
20 any of Defendants products and services as being sponsored by, authorized by, endorsed by, or in
21 any way associated with Plaintiffs;

22 d. Falsely representing themselves as being connected with Plaintiffs, through
23 sponsorship or association;

24 e. Engaging in any act which is likely to falsely cause members of the trade
25 and/or of the purchasing public to believe any goods or services of Defendants are in any way
26 endorsed by, approved by, and/or associated with Plaintiffs;

27 f. Using any reproduction, counterfeit, copy, or colorable imitation of the
28 Barton Marks in connection with the publicity, promotion, sale, or advertising of any goods and

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services sold by Defendants, including without limitation any levels of the Copyrighted Barton System;

g. Affixing, applying, annexing, or using in connection with the sale of any goods and services, a false description or representation, including words or other symbols tending to falsely describe or represent goods and services by Defendants as being those of Plaintiffs or in any way endorsed by Plaintiffs;

h. Offering such goods and services including without limitation the Copyrighted Barton System in commerce;

i. Secreting, destroying, altering, removing, or otherwise dealing with the unauthorized products and services, or any books or records, which contain any information relating to the importing, manufacturing, producing, distributing, circulating, selling, marketing, offering for sale, advertising, promoting, renting, or displaying of the Copyrighted Barton System, the Barton Marks, and/or all unauthorized products and services which infringe Plaintiffs' copyrights and the Barton Marks; and

j. Effecting assignments or transfers, forming new entities or associations or utilizing any other device for the purpose of circumventing or otherwise avoiding the prohibitions set forth above.

5. The Court awards Plaintiffs \$60,000 in trademark statutory damages; and

6. The Court awards Plaintiffs \$50,000 in copyright statutory damages plus \$61,478.50 in reasonable attorneys' fees on the copyright claims.

IT IS SO ORDERED.

Dated: March 26, 2018



CLAUDIA WILKEN
United States District Judge